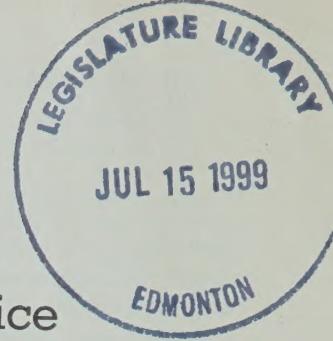


CA2 ALLA
1942 I71

ALBERTA LEGISLATURE LIBRARY



3 3398 00239 5209



Is Alberta Above Law, Courts of Justice and Constitution?

THE Dominion Government on March 27th, 1942, disallowed three more Acts of the Alberta Social Credit legislature and referred a fourth to the Supreme Court of Canada.

The Acts disallowed were all passed at the 1941 session of the Alberta Legislature. They were:

1. The Debt Proceedings Suspension Act 1941.
2. The Orderly Payment of Land Debts Act 1941.
3. The Limitation of Actions Act 1935 Amendment Act 1941.

(The Act referred to the Supreme Court is The Municipal District Act Amendment Act 1941).

Disallowance of the three Acts above enumerated brought forth from Premier Aberhart a statement assailing the lending institutions.

To read his attack one would never know that there is on the statute books of the Dominion of Canada, The Farmers' Creditors Arrangement Act which provides machinery for equitable and orderly adjustment of farm debt and which has been working in Alberta through Mr. Aberhart's whole period of office. Nor would anybody know from Mr. Aberhart's statement that the debts of farmers throughout Canada have been scaled down by more than \$100,000,000 over the last few years, Alberta's being reduced by \$26,430,714.

What the Record Shows

Premier Aberhart's statement that the Dominion Government has done nothing whatever to relieve farm debtors in Alberta ignores the fact that Boards of Review and Official Receivers under The Farmers' Creditors Arrangement Act have since 1934 been readjusting the debts of farmers who have found their obligations too heavy to bear.

By the 31st March, 1941, general reductions in farm debts were made in no less than 7,364 cases in Alberta alone. The total debt in these cases was \$58,663,328, which was reduced in principal to \$32,232,614, a reduction which averaged \$3,589 per case. This reduction (forty-five per cent) is higher than in any other province. The estimated annual interest reduction was \$2,197,062, or an average of \$298.35 for each case. Of the total amount of original debt involved only \$4,818,498 was unsecured.

It is reasonable to assume that the farmers who brought their cases before Boards of Review constitute all, or practically all who felt they were

unable to bear the burden of their obligations. At all events the total amount involved of about \$58,600,000 compares with a total Alberta farm debt of \$265,000,000 as estimated for the Royal Commission on Dominion-Provincial Relations. The amount of secured debt involved, \$53,844,830, compares with an estimated total of \$167,000,000 of Alberta agricultural debts in the form of mortgages and agreements of sale, estimated for the Commission.

Out of the \$58,600,000 of Alberta farm indebtedness originally dealt with under The Farmers' Creditors Arrangement Act, only \$4,800,000—8 per cent—represented debts owed to the banks. In the circumstances, the Alberta government's evident animus against the banks is the more surprising—indeed, the more unwarranted.

Mr. Aberhart completely—it must be wilfully—has ignored these facts in order to enable himself to say that the Dominion Government has lent itself "to support an internal offensive by the money-lending corporations against the unfortunate debtors of our country." He names the Dominion Mortgage Association and The Canadian Bankers' Association, the Edmonton Chamber of Commerce and the Calgary Board of Trade, which petitioned for disallowance, as money-lending institutions or their representatives. He adds this, and much more like it:

"The Alberta Government has a clear mandate from the people to protect them from callous and greedy disposition by unscrupulous lending institutions which have been thriving on large-scale legalized oppression of the people for decades . . . In these matters the federal government . . . have refused to do anything themselves about the debt situation."

In the face of operations and results under The Farmers' Creditors Arrangement Act as detailed above, Mr. Aberhart's statements are remarkable.

The Constitution

(1) Canada's constitution is provided in the British North America Act. Under that Act the following subjects, among others, are declared to be in the sole legislative authority of the Dominion Parliament (**not** that of the provincial legislatures), viz:

- (a) Regulation of trade and commerce;
- (b) Currency and coinage;
- (c) Banking, incorporation of banks and the issue of paper money;
- (d) Savings banks;

LIBRARY
VAULT 19

- (e) Bills of exchange and promissory notes;
- (f) Interest;
- (g) Legal tender;
- (h) Bankruptcy and insolvency.

(2) Notwithstanding that clear constitutional provision, Mr. Aberhart, his government and his majority in the Alberta Legislature, have sought again and again to trespass upon federal fields, in defiance of the British North America Act.

(3) Again and again the courts of Alberta, the Government of Canada, the Supreme Court of Canada and the Privy Council have declared his Acts illegal and beyond the powers of a provincial legislature. But again and again, as fast as such Acts have been upset by our courts of justice or disallowed by His Excellency the Governor General in Council, Mr. Aberhart and his cohorts have sought by subterfuges to achieve the same ends by re-enactment.

(4) It is a fundamental rule of constitutional law that no legislature may do indirectly what it is prohibited from doing directly. Such a rule has no terrors for Mr. Aberhart. It means nothing to him. He defies it, keeps on passing the same old enactments under new disguises but with the same old purposes—and the courts or the Dominion Government keep on upsetting them. Whenever he is thus told that he "cannot get away with it" any more than could any other law-breaker or violator of the constitution, he hurls thunderbolts of abuse and vilification at financial institutions and creditors generally, thereby exciting class prejudice in aid of his political party programme.

(5) Mr. Aberhart speedily found that in pointing his heavy legislative guns at creditors generally, he brought under threat or caused grievous harm to many individual citizens of his own province, so it was not very long before he trained his artillery against corporations—insurance companies, mortgage, trust and loan companies, and banks. He seems to have disregarded the fact that corporations are only aggregations of shareholders or policy-holders, or that they act for widows and children, the safety of whose investments or expectations of security might easily be menaced by vicious legislation.

We now proceed to review the facts and the background of the Acts recently dealt with by the federal government.

1. The Debt Proceedings Suspension Act, 1941

(Disallowed)

This Act was a re-enactment of previous abortive Acts passed to keep creditors from protecting their rights in the courts.

As in the case of the previous legislation, it applied only to debts owed **to** corporations and originating on or before July 1, 1936. Those owed **by** corporations or by one individual to another were not interfered with. In substance, the Act would have enabled the government, by order in council, to prohibit until after a date fixed in the

order in council, issuance of processes out of all provincial courts for recovery of such debts; executions of any such process; proceedings by way of distress or repossession; and to stay all proceedings pending in the courts for the purpose of enforcing any such debts.

This legislation was rankly discriminatory; corporations were properly left to pay their own debts but were improperly prohibited from collecting from individuals who owed money to them! It was aimed directly at all credit institutions trying to do business in Alberta—insurance companies, loan companies, trust companies, banks. It would have prevented collection of moneys due under mortgages and agreements of sale, certain bills of exchange, promissory notes and other evidences of debts originating before July 1, 1936.

These institutions would have been prevented from recovering the money due in respect of many kinds of securities and negotiable instruments to which they have certain rights under federal legislation.

This was a serious interference with the assets that stand behind insurance policies, a serious interference with banking assets and therefore a serious interference with banking—and banking is one of the subjects reserved to the exclusive legislative field of the federal authority by the British North America Act, Canada's constitution.

Disallowance was just, not only just, but inevitable. The head of the Alberta government has no justification whatsoever for his statement assailing the lending institutions. His legislation would undermine even the security of invested insurance premiums which form an earning-power that buttresses the surety of every beneficiary of an insurance policy. It would undermine the constitution itself in pursuit of his fetish of Social Credit. When he attacks the lending institutions in the manner in which we have quoted him, he overlooks—it could only be deliberately—the fact that under The Farmers' Creditors Arrangement Act every farmer with a fair claim to a downward adjustment of his indebtedness can obtain it and probably has already done so.

2. The Orderly Payment of Land Debts Act, 1941

(Disallowed)

This was another of those legislative measures undertaken to achieve indirectly the purposes previously sought directly, contrary to the constitution. The history dates back to 1936 when, at the second session in that year, the Alberta Legislature enacted The Reduction and Settlement of Debts Act. This Act legislated in the exclusive field of the federal authority in regard to interest. The courts of the Province of Alberta declared it to be invalid on that ground.

Then, in 1938, the Legislature enacted two more statutes, The 1938 Securities Tax Act and The Home Owners Security Act. The former Act imposed a so-called tax of 2 per cent of the principal outstanding on the person entitled to receive the principal sum payable under any first, second or third mort-

gage. This applied to individual as well as corporate creditors. Illustrating its operation: If a farmer had lent money on mortgage to his neighbouring farmer (as so many had done) the lender would be required to pay a tax of 2 per cent of the unpaid balance! This being so obviously unfair, discriminatory and confiscatory, the statute was disallowed by the Governor General in Council.

Next, The Home Owners Security Act of 1938 purported to prohibit actions in the provincial courts for foreclosure or sale founded on any mortgage executed before March 1st, 1938, against a farm home-owner, and all pending actions of that nature were ordered stayed.

(It will be remembered that at that time, Alberta Social Credit officials, angered over disallowance, issued statements similar to Mr. Aberhart's intemperate attack in the present situation. They accused "the banks" of "forcing people off the land" and "depriving them of their homes by foreclosures." An analysis of bank foreclosures of the previous five years, showed that there had been an average of less than seven a year, and that in only one case in five years had the debtor lost his home!)

Under this so-called "Home Owners Security Act 1938" any plaintiff in a foreclosure action touching an urban home would have had to deposit \$2,000 with the court before action could be taken—this \$2,000 to be paid by the court to the home-owner if a final foreclosure order resulted from the suit. So that if, say, a citizen of Calgary, faced with a persistent and deliberate refusal by a mortgage borrower to pay, wanted to exercise his rights and foreclose, he would have had to pay \$2,000 into court which his dead-beat debtor would eventually receive. Where the value of the property involved was less than \$2,000, the effect of the legislation was to deter any action at all, to shelter the debtor for all time, and deprive the creditor of his money and his rights. This preposterous, confiscatory legislation was also disallowed.

But Mr. Aberhart is persistent. In 1941 he caused to be enacted The Orderly Payment of Land Debts Act which has now been disallowed. It purported to apply to farmer or urban debtors under mortgages or agreements of sale where the entire consideration for the contract arose before July 1, 1936, and subsequent renewals and guarantees thereof.

Blocked, as we have shown above, by courts and constitution, from preventing the recovery of interest and from taxing the interest in the hands of mortgagees, and prevented from denying mortgagees access to the courts (except, virtually, by paying the debtor \$2,000), the Alberta Government in its 1941 statute sought to obliterate what ordinarily constitutes default under mortgages or agreements of sale. Under its provisions any farmer dishonest enough to want to cheat his mortgage creditor, could avoid being made to pay—all he had to do was quit growing any grain at all and confine his farming to livestock, thereby making it impossible for him to be deemed in default. Such, indeed, would have been the effect of "The Orderly Pay-

ment" (save the mark!) "of Land Debts Act 1941."

No urban debtor whose gross income (including that of his wife) was under \$1,000 a year, could be regarded as in default at all! And for those whose incomes exceeded \$1,000 a year, any such debtor could evade the penalties of default by tendering a percentage—ranging from 10 percent to 20 percent—of his gross income to his creditors. Any really dishonest debtor, keen to cheat his mortgage creditor, could be secure from payment for all time and could hold property against all comers by simply quitting work and going on relief!

By excluding the ordinary meaning of default, this legislation, if allowed to remain on the statute books as enforceable law, would have barred the creditor from the courts of justice altogether. It would have nullified contracts for the payment of interest entered into in accordance with The Interest Act of Canada.

This legislation would have rendered many mortgages and agreements of sale valueless and would have seriously reduced the value of others owing to the absence of any yardstick for measuring or estimating what interest would be paid thereunder. The Act, moreover, was clearly passed in defiance of the constitutional provision which reserves to the federal parliament the legislative jurisdiction over interest.

No wonder the Governor General in Council disallowed it. No wonder that boards of trade and chambers of commerce in Alberta petitioned for the disallowance!

3. The Limitation of Actions Act 1935 Amendment Act 1941

(Disallowed)

This is another enactment with a long history and another attempt, by changing the Statute of Limitations, to give effect to legislative efforts previously disallowed. The effort started in 1938, with an Act to prohibit court action, execution, seizure, attachment, garnishment, distress, etc., in respect of debts incurred before July 1st, 1936—unless such actions were launched before July 1st, 1940.

The only way a creditor could preserve his legal rights was to obtain a renewal agreement from the debtor before July 1st, 1940. All the debtor had to do was sit back and refuse to make any renewal agreement. Most debtors, like most people, are honest and this kind of legislation has the effect, in the main, of benefiting the others. It is a tribute to the people of Alberta as a whole that, notwithstanding the Social Credit government's strange legislation, they have kept on paying their honest debts, or have negotiated fair ameliorations under the changed conditions of the times, under The Farmers' Creditors Arrangement Act.

The 1938 Act having been disallowed by the Governor General in Council, the Alberta government introduced another similar statute in 1939—which would have outlawed by July 1st, 1942, all actions such as those referred to above. This flagrant attempt to outlaw all debt originating before July 1st, 1936, in defiance of the disallowance of the

almost identical 1938 Act, was also disallowed.

In 1941 the Alberta government again sought to attain the same end, reducing the periods of limitation within which actions to enforce mortgages and agreements of sale must be brought. Because of the invalidity of The Debt Adjustment Act time had been running since its enactment against these pre-1936 debts and this Limitation of Actions Act 1935 Amendment Act 1941 would have had the effect of cutting down the remaining time to a few months.

Because this continual and persistent interference by the Alberta government with the rights of creditors by seeking to bar them from the courts of justice in every possible way since 1936 has had adverse effects on interprovincial trade and commerce with Alberta—and on the flow of credit and finance between Alberta and other provinces, with derogatory effects on Canada as a whole—the Governor General in Council disallowed this Act on March 27th, 1942.

4. The Municipal District Act Amendment Act 1941

(Referred to Supreme Court of Canada)

Objection was taken to this Act because it had the effect of making the creditor pay the taxes of the debtor. Illustrating the "freak" quality of this legislation: It was contended that if a farmer delivered wheat to an elevator, obtained a grain ticket for it and deposited the grain ticket in his bank to retire a loan, the loan would be repaid and the bank would be liable to pay the farmer's municipal taxes!

Petitioners also represented that any unscrupulous debtor needed only to pay a part of his crop or its proceeds to one of his creditors other than his municipal district or a lien holder—whereupon he would have discharged his debt to that extent and at the same time made the creditor liable to pay the debtor's municipal district taxes. By one payment the debtor would have discharged his debt and paid his municipal taxes at the same time.

The government referred this item of legislation to the Supreme Court of Canada where its validity will be decided.

Summary

In summary, (1) By The Debt Proceedings Suspension Act a one-sided moratorium would have been declared, protecting individuals from being brought before the courts by their corporate creditors. (2) By The Orderly Payment of Land Debts Act, both rural and urban debtors under mortgages and agreements of sale would have been safeguarded from the ordinary, proper consequences of default and their creditors denied access to the courts. (3) By The Limitation of Actions Act Amendment Act, the limitation period for action to recover debts under certain mortgages and agreements of sale was, in fact, cut down to a few months. And (4) The Municipal District Act Amendment Act would make the creditor liable for the debtor's municipal taxes.

And Mr. Aberhart complains to high Heaven that the "money-lenders"—"greedy"—"callous"—are oppressing and dispossessing the Alberta debtor! And that the federal government is doing nothing to help the unfortunate!

The persistency and wilfulness with which the Alberta government seeks to challenge or evade, circumvent or undermine the constitution of Canada at a time when national unity is required to the utmost in a war for existence itself, constitute a travesty upon responsible government. The extent of this mischief-making legislation—and the fate of it since the Social Credit government came into office—are detailed below. The list, to most people, will prove staggering:

Alberta's "Social Credit" Laws and What Became of Them, 1936 to 1941

1936—FIRST SESSION

Chapter 5—"The Social Credit Measures Act."

(This Act declared the present monetary system to be "obsolete" and stated "that the people of the Province are entitled to the full benefit of the increment arising from their association.") The Alberta Legislature itself repealed the Act in 1937.

Chapter 67—"The Licensing of Trades and Businesses Act." Proclaimed in force April 15, 1936; repealed 1937. A new one is now in force.

1936—SECOND SESSION

Chapter 1—"The Alberta Credit House Act."

(This Act laid down provisions for registering all citizens and for setting up "Credit Houses," the purpose of which was described as "to provide every person entitled to Alberta credit with any amount of any Alberta credit to which he may become entitled, etc." This raised hopes among Alberta people that the promised \$25 per month Social Credit "dividends" would be paid.) This Act was proclaimed in force on October 15, 1936, but the Alberta Legislature itself repealed it in 1937.

Chapter 2—"The Reduction and Settlement of Debts Act." (This Act divided debt into "Old Debt" and new. "Old debt" was defined as debt which originated prior to July 1, 1936. A non-judicial "Debt Adjustment Board" was to be set up. A permit from this board would have been required before any creditor could exercise his rights to sue for recovery of "old debt.") This was declared invalid by Alberta courts in 1937.

Chapter 4—"The Prosperity Certificates Act 1936." (This provided that the provincial treasurer could issue up to \$2,000,000 in certificates to be paid to anybody who would accept them in return for goods and services. They were redeemable by the provincial treasurer in two years, provided each certificate had affixed to it 104 one-cent stamps.) The experiment was tried; it failed and was abandoned.

Chapter 5—"The Provincial Securities Interest Act." (This prevented lawsuits in respect of securities guaranteed by the province, except by consent of the Lieutenant-Governor in Council.) As a result of an action on the part of a fraternal order which held in its investment portfolio some provincially-guaranteed Irrigation District bonds, the Alberta courts declared this Act invalid in 1937.

Chapter 12—"The Municipal Securities Interest Act." This Act was passed, but was never proclaimed or in force.

Chapter 16—"The Judicature Act Amendment Act, 1936." (This Act prohibited actions against cabinet ministers, and certain other types of actions in the courts, without the prior consent of the government itself.)

1937—FIRST SESSION

Chapter 9—"The Debt Adjustment Act 1937." (This Act interposed a non-judicial Debt Adjustment Board between the creditor and the courts.) In an action between a lumber company in Alberta and other parties, including the Attorney-General of Alberta, this Act was held by Alberta courts to be inapplicable to actions on bills of exchange or promissory notes. The whole Act was eventually referred by the Dominion Government to the Supreme Court of Canada for decision as to its validity. The Supreme Court of Canada in 1941 held the Act to be entirely invalid. An appeal to the Privy Council is pending.

Chapter 10—"The Alberta Social Credit Act." (This Act declares (section 31) that it is intended to cause "the present system of issuing credit through private initiative for profit" to "cease." It professed to legislate as to currency and generally invaded the exclusive field of federal legislation as to trade and commerce, banking, etc.) This legislation was declared unconstitutional by the Supreme Court of Canada and was repealed by the Alberta Legislature in 1938.

Chapter 11—"The Provincially Guaranteed Securities Proceedings Act." (This was a renewed attempt to ban by legislation legal proceedings in the courts in respect to securities guaranteed by the province.) As a result of an action taken by the Independent Order of Foresters, the Privy Council in 1940 ruled this Act unconstitutional.

Chapter 12—"The Provincial Guaranteed Securities Interest Act." (This sought to legislate in the exclusive federal field of interest.) An action by the Independent Order of Foresters resulted in the Privy Council holding the Act unconstitutional.

Chapter 13—"The Provincial Securities Interest Act 1937." (This legislation virtually halved the rate of interest which the Province had contracted to pay on its bonds.) It was declared invalid by provincial courts, Supreme Court of Canada and the Privy Council, in an action taken by the In-

dependent Order of Foresters. Nevertheless the Alberta government has ignored the Privy Council's decision and persisted in paying to those who would accept it, only half the interest their bonds entitled them to.

Chapter 30—"The Postponement of Debts Act." Repealed by the Alberta Legislature in 1938.

Chapter 83—"The Prosperity Certificates Act Amendment Act 1937." (This Act authorized the government to discontinue the "Prosperity Certificates" scheme which had become a fiasco.)

1937—SECOND SESSION

Chapter 1—"The Credit of Alberta Regulation Act." (This Act declared the intention of the government to "control the business of banking in Alberta"—a flagrant disregard of the British North America Act as outlined earlier in this bulletin. The Act proposed to make each branch manager subordinate to a "local board of directors" appointed by the provincial government.) The Governor General in Council disallowed it on August 17th, 1937.

Chapter 2—"The Bank Employees Civil Rights Act." (Under this Act all bank employees would have had to take out licences. Another instance of the freakish nature of much Alberta legislation—if a bank employee failed to take out a licence he was deprived of all his civil rights. Thus if he were knocked down and injured by a reckless motorist, he could not sue for damages!) This Act, never proclaimed, was disallowed by the Governor General in Council.

Chapter 3—"The Alberta Social Credit Act Amendment Act 1937." (This Act declared: "Social Credit is the power resulting from the belief inherent within society that its individual members in association can gain the objectives they desire." Quite innocently the marginal note opposite this remarkable statement in the bill says: "Social Credit Defined.") The Act provided for the appointment of a Social Credit Board and as part of the parent Act, was held invalid by The Supreme Court of Canada.

Chapter 5—"The Judicature Act Amendment Act 1937 Second Session." (This would have barred any legal proceeding to test the legal validity of any Alberta legislative enactment without the permission of the Alberta government itself.) The Act was disallowed by the Governor General in Council. Obviously the Alberta government wished to be above the law and the courts, free to override and disrupt the entire constitution of Canada.

1937—THIRD SESSION

Chapter 1—"The Licensing of Trades and Businesses Act 1937." (This repealed the 1936 Act of the same title.) It was challenged by Alberta business interests in the Alberta courts and was held valid.

Chapter 2—“The Debt Adjustment Act 1937 Amendment Act 1937.” This and its kindred Debt Adjustment enactments have been ruled invalid on reference to the Supreme Court of Canada. The Alberta government has appealed this judgment to the Privy Council.

Bill No. 1—“The Bank Taxation Act.” (Under this Bill the chartered banks were singled out to be made subject to discriminatory and unbearable increases in taxation which would have driven them from business in the province.) The Lieutenant-Governor of Alberta withheld his assent to the Bill, “for the signification of the pleasure of His Excellency the Governor General in Council.” The Dominion Government referred it to the Supreme Court of Canada which held the Act invalid. The Privy Council on appeal upheld the Supreme Court judgment.

Bill No. 8—“The Credit of Alberta Regulation Act 1937.” This too, being the second effort to control the chartered banks, was reserved by the Lieutenant-Governor. It was referred by the Dominion Government to the Supreme Court of Canada which held it unconstitutional.

Bill No. 9—“The Accurate News and Information Act.” (The effect of this Act would have been to curtail the freedom of the press and compel newspapers to publish anything the Alberta government ordered them to print.) Royal assent was reserved by the Lieutenant-Governor. The Canadian Press, the Canadian Daily Newspapers Association, and the Canadian Weekly Newspapers Association, on reference to the Supreme Court of Canada, contested this legislation. They won when the Supreme Court of Canada ruled it to be an unwarranted and unconstitutional curtailment of the freedom of the press.

1938—FIRST SESSION

Chapter 3—“The Alberta Social Credit Realization Act.” This Act provided for the appointment of the Social Credit Board with certain powers. It was not challenged. The Board was constituted and has operated since largely as a propaganda bureau for the Social Credit movement.

Chapter 4—“An Act to Repeal the Alberta Social Credit Act.” By this Act the Aberhart government repealed chapter 10 of the 1937 statutes, which the Supreme Court of Canada had found invalid.

Chapter 6—“The Agricultural Land Relief Act.” (Another item of “freak” legislation. It provided: “On, from and after the first day of the month next following the month in which this Act is proclaimed in force, seven undivided one-hundredth parts of all agricultural produce shall, as from the moment upon which the same comes into being, be vested in His Majesty in the right of the Province.” It was a confiscation of 7 per cent. of all that the farmers could produce!) This Act was

referred by the government of Alberta to the Supreme Court of that province, which declared it to be invalid. By the time that judgment was given, rising wrath and clamour among the farmers must have caused the Alberta government to receive the decision with considerable relief.

Chapter 7—“The 1938 Securities Tax Act.” (This is the Act that would have compelled creditors to pay a 2 per cent tax on the outstanding balances of mortgages, agreements of sale and other securities.) Disallowed by the Governor General in Council, June 16, 1938.

Chapter 25—“The Debt Proceedings Suspension Act.” Never brought into force by proclamation.

Chapter 26—“The Postponement of Debts Act Repeal Act.” (This repealed the 1937 Act which sought to set a fixed date after which action on debts incurred prior to July 1, 1936, could not be taken in the courts.)

Chapter 27—“The Debt Adjustment Act 1937 Amendment Act 1938.” This is part of the legislation ultimately held invalid by the Supreme Court of Canada and appealed by the Alberta government to the Privy Council.

Chapter 28—“The Limitation of Actions Act 1935 Amendment Act 1938.” Disallowed March 25th, 1939; its aims were again sought to be attained in the “Limitation of Actions Act 1935 Amendment Act 1941”, disallowed on March 27th, 1942.

Chapter 29—“The Home Owners Security Act.” (This Act would have made any creditor put up \$2,000 to be handed to his debtor in event of foreclosure.) It was disallowed.

1938—SECOND SESSION

Chapter 3—“The Treasury Branches Act.” (This Act set up virtually a provincial banking system without the safeguards with which The Bank Act (federal statute) protects depositors and others doing business with the chartered banks.) This system is still running, at a loss, thus far, of about \$350,000 a year.

Chapter 5—“The Debt Adjustment Act 1937 Amendment Act 1938 Second Session.” Ruled invalid by the Supreme Court of Canada.Appealed to the Privy Council.

1939 SESSION

Chapter 80—“The Limitation of Actions Act 1935 Amendment Act 1939.” (Another attempt to prevent creditors from coming before courts of justice.) It was disallowed by the Governor General in Council on October 4, 1939.

Chapter 81—“The Debt Adjustment Act 1937 Amendment Act 1939.” Ultimately to be ruled upon by the Privy Council. This legislation has been held invalid by the Supreme Court of Canada.

1940 SESSION

Chapter 3—“The Alberta Social Credit Realization Act Amendment Act 1940.” (This Act provided for filling vacancies in the Social Credit Board.) It has not been challenged.

Chapter 7—“The Alberta Banking Powers Act.” (This was a provincial Act to provide for running a bank and was the basis of a request to the Dominion Government for a bank charter. Such a charter was refused by Parliament in 1940 and again in 1941, on advice from the Department of Justice that to grant a provincial government such a charter would be unconstitutional.)

Chapter 14—“The Treasury Branches Act Amendment Act 1940.” (This amends the province's quasi-banking system so that the provincial treasurer or his delegates may use people's deposits to lend money at interest, or for the purchase of investments, or to buy goods for resale.)

1941 SESSION

Chapter 3—“The Legal Proceedings Suspension Act 1941.” (This Act purported to bar proceedings, under certain conditions, to test the constitutionality of The Debt Adjustment Act.) It was held invalid by Alberta courts.

Chapter 41—“The Debt Proceedings Suspension Act.” (Detailed above.) One of the three Acts disallowed March 27, 1942.

Chapter 42—“The Debt Adjustment Act 1937 Amendment Act 1941.” Held invalid by Supreme Court of Canada.Appealed by Alberta to the Privy Council.

Chapter 47—“The Orderly Payment of Land Debts Act.” (Detailed above.) One of the three Acts disallowed March 27, 1942.

Chapter 53—“The Municipal District Act Amendment Act 1941.” (Referred by federal government to Supreme Court of Canada.) This is the Act under which a creditor would be made liable for the debtor's municipal taxes.

Chapter 62—“The Limitation of Actions Act 1935 Amendment Act 1941.” (Detailed above.) One of the three Acts disallowed on March 27, 1942, by the Governor General in Council.

Above the Law, the Constitution, the Courts

There, for the time being, ends the sorry tale. The Alberta Government has pursued the most amazingly futile course in history. It has persistently had its legislation upset in the courts as illegal and unconstitutional. Notwithstanding all this it has persisted, session after session, in clothing its old, futile laws again and again in new guises and introducing them under new subterfuges. And the subterfuge legislation has all met the same end.

The courts of Alberta, the Supreme Court of Canada, the Privy Council are not all wrong. It is Mr. Aberhart's government that is in the wrong—setting itself up as above the courts of justice, above the law, above the British North America Act, above the Government of Canada.

Above are surveyed no fewer than forty-six Acts of the Alberta Legislature—most of them upset by the courts or by other constitutional means; and most of them passed in sheer defiance of previous court decisions.

One may well wonder how much longer this sort of thing can go on—and what the Alberta monetary “reformers” hope to gain by suggesting this type of futility as a policy for other provinces of Canada to follow!



Digitized by the Internet Archive
in 2022 with funding from

Legislative Assembly of Alberta - Alberta Legislature Library

